

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

BETHANY R. SCAER and
STEPHEN SCAER

Plaintiff,

v.

CITY OF NASHUA, a municipal
corporation; JAMES W. DONCHESS,
Mayor, City of Nashua, in his official
capacity; JENNIFER L.
DESHAIES, Risk Manager, City of
Nashua, in her official
capacity,

Defendants.

Civil Action No. 1:24-cv-00277-LM-TSM

**DEFENDANTS’ JOINT REPLY TO PLAINTIFFS’ BRIEF IN RESPONSE
TO DEFENDANTS’ MOTION TO DISMISS THE OFFICIAL
CAPACITY CLAIMS**

Defendants City of Nashua, Mayor James W. Donchess, and Jennifer L. Deshaies (“Defendants”), respectfully submit the following Reply to Plaintiffs’ Brief in Response to Defendants’ Motion to Dismiss the Official Capacity Claims Against the Individual Defendants:

Plaintiffs’ official capacity claims against Defendants are wholly redundant. There is more than mere “overlap” between the claims — the Complaint makes no allegations against the Mayor or against Ms. Deshaies that are not also brought against the City. And this makes sense: allegations against official capacity defendants are really, by their nature, claims against the municipality. To that end, Defendants have no issue making the common-sense and unremarkable “concessions” Plaintiffs refer to on the first page of their Brief. If the official capacity claims are dismissed, (1) any relief granted against the City of Nashua would operate against its Mayor and

Risk Management Offices regardless of whether those offices experience personnel turnover, and (2) the scope of discovery will remain the same.

Plaintiffs attempt to overcomplicate settled law by relying exclusively on out-of-jurisdiction authority, while ignoring this Court's clear rulings in *Traudt* and *Signs for Jesus*. Nearly half the brief is devoted to the irrelevant fact that the City and official-capacity Defendants retained separate counsel. This point is legally meaningless at best, and inappropriate at worst. And the suggestion that separate counsel implies a conflict or alters the nature of Plaintiffs' own claims is incorrect.

Plaintiffs appear to agree that, because any decision against the City is binding upon its departments and because the scope of discovery will remain the same, their claims are redundant. For this reason, the official-capacity claims should be dismissed with prejudice.

Respectfully submitted,

JENNIFER L. DESHAIES, Defendant

By her attorneys,

Dated: May 6, 2025

By: /s/Kat Mail

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CITY OF NASHUA, Defendant

By its Attorneys,

Dated: May 6, 2025

/s/ Jonathan A. Barnes

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JAMES W. DONCHESS, Defendant

By his attorneys,

Dated: May 6, 2025

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CERTIFICATE OF SERVICE

I hereby certify this 6th day of May, 2025, copies of the within document have been served on all parties of record electronically via ECF.

/s/Kat Mail
Kat Mail